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UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

11 ROBERT ALVARADO, in his capacity as Trustee ) No. C 05 02171 EMC  
12 of the CARPENTERS HEALTH AND WELFARE )  
13 TRUST FUND FOR CALIFORNIA; CARPENTERS )  
14 VACATION-HOLIDAY TRUST FUND FOR )  
15 NORTHERN CALIFORNIA; CARPENTERS )  
16 PENSION TRUST FUND FOR NORTHERN )  
17 CALIFORNIA; and CARPENTERS TRAINING )  
18 TRUST FUND FOR NORTHERN CALIFORNIA, )  
19 and CARPENTERS 46 NORTHERN CALIFORNIA )  
20 COUNTIES CONFERENCE BOARD for itself )  
21 and on behalf of NORTHERN CALIFORNIA )  
22 CARPENTERS REGIONAL COUNCIL, and )  
CARPENTERS LOCAL UNION NO. 217 )  
Plaintiffs, )  
v. )  
23 MCLOUD BUILDERS, INC., A Suspended )  
24 California Corporation, )  
Defendants. )

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25 Plaintiffs respectfully submit this Case Management Conference Statement and ask the  
26 Court to continue the Case Management Conference set for October 19, 2004 at 1:30 p.m.,  
27 as Defendants has not filed an answer or otherwise responded to the complaint which was served  
on June 14, 2005, and for which proof of service was filed before this Court with the Summons on  
July 7, 2005. Plaintiffs anticipate filing a motion for default judgment within a week.

28

I.

**DESCRIPTION OF CASE**

Plaintiffs are labor organizations within the meaning of section 301 of the Labor Management Relations Act (29 U.S.C. § 185) and Trustees representing employee benefit plans created by a written Trust Agreement subject to and pursuant to section 302 of the Labor Management Relations Act (29 U.S.C. § 186) and multi-employer employee benefit plans within the meaning of sections 3, 4 and 502 of ERISA (29 U.S.C. §§ 1002, 1003 and 1132).

8 In this action, Plaintiffs seek to compel the Defendant to comply with the Decision and  
9 Award of Arbitrator Thomas Angelo, issued February 11, 2005 pursuant to the terms of a  
10 collective bargaining agreement between the parties. Plaintiffs seek an Order of this Court  
11 confirming said Award, and making it a Judgment of this Court. Plaintiffs further seek an  
12 injunction compelling Defendant to submit to an audit of its books and records to determine if it  
13 timely and accurately made fringe benefit contributions and for an order requiring Defendant to  
14 pay any and all amount delinquencies found due under the audit as well as interest and liquidated  
15 damages thereon.

II.

## **SUBJECT MATTER JURISDICTION**

18 This action arises under and is brought pursuant to section 502 of the Employee Retirement  
19 Income Security Act, as amended (ERISA), 29 U.S.C. § 1132, and section 301 of the Labor  
20 Management Relations Act (LMRA), 29 U.S.C. § 185. The jurisdiction of this Court is founded on  
21 28 U.S.C. § 1331. Venue properly lies in this district court because a substantial part of the events  
22 and omissions giving rise to these claims occurred in this district, including, but not limited to  
23 Defendants' agreement with Plaintiffs, which requires that trust funds contributions are due and  
24 payable in the County of San Francisco.

### III.

**RELATED CASES PENDING**

There are none.

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IV.

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**DEFENDANTS HAVE NOT APPEARED**

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Defendants have not filed an answer or otherwise responded to the complaint which was  
4 served on June 14, 2005, and for which proof of service was filed before this Court with the  
5 Summons on July 7, 2005. Plaintiffs filed a Request for Entry of Default on September 14, 2005  
6 which was entered by the Clerk of this Court on September 19, 2005.

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V.

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**CONTINUE CASE MANAGEMENT CONFERENCE**

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Plaintiffs request that the Court continue the case management conference set for  
10 October 19, 2005 for at least 60 days in order for Plaintiffs' anticipated motion for default  
11 judgment to be heard by this Court.

12  
Dated: October 14, 2005.

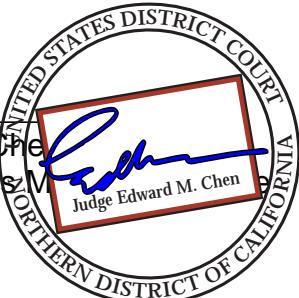
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WEINBERG, ROGER & ROSENFELD  
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A Professional Corporation

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By: /s/Joye Blanscett  
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JOYE BLANSCETT  
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Attorneys for Plaintiffs

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109383/399452

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IT IS SO ORDERED that the Case Management Conference is rescheduled from  
20 10/19/05 at 1:30 p.m. to 12/14/05 at 1:30 p.m. Joint Case Management Statement  
due 12/7/05.

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Edward M. Chen  
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United States Magistrate  
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**PROOF OF SERVICE**  
(CCP 1013)

I am a citizen of the United States and an employee in the County of ALAMEDA, State of California. I am over the age of eighteen years and not a party to the within action; my business address is 1001 Marina Village Parkway, Suite 200, Alameda, California 94501-1091. On October 14, 2005, I served upon the following parties in this action:

McCloud Builders, Inc.  
19900 N. Cherry Street  
Lockeford, CA 95237

copies of the document(s) described as:

PLAINTIFF'S CASE MANAGEMENT CONFERENCE STATEMENT AND  
REQUEST FOR CONTINUANCE

**[X] BY MAIL** I placed a true copy of each document listed herein in a sealed envelope, addressed as indicated herein, and caused each such envelope, with postage thereon fully prepaid, to be placed in the United States mail at Alameda, California. I am readily familiar with the practice of Weinberg, Roger & Rosenfeld for collection and processing of correspondence for mailing, said practice being that in the ordinary course of business, mail is deposited in the United States Postal Service the same day as it is placed for collection.

**BY PERSONAL SERVICE** I placed a true copy of each document listed herein in a sealed envelope, addressed as indicated herein, and caused the same to be delivered by hand to the offices of each addressee.

[ ] **BY OVERNIGHT DELIVERY SERVICE** I placed a true copy of each document listed herein in a sealed envelope, addressed as indicated herein, and placed the same for collection by Overnight Delivery Service by following the ordinary business practices of Weinberg, Roger & Rosenfeld, Alameda, California. I am readily familiar with the practice of Weinberg, Roger & Rosenfeld for collection and processing of Overnight Delivery Service correspondence, said practice being that in the ordinary course of business, Overnight Delivery Service correspondence is deposited at the Overnight Delivery Service offices for next day delivery the same day as Overnight Delivery Service correspondence is placed for collection.

**BY FACSIMILE** I caused to be transmitted each document listed herein via the fax number(s) listed above or on the attached service list.

I certify under penalty of perjury that the above is true and correct. Executed at Oakland, California, on October 14, 2005.

/s/Eva Miron  
Eva Miron